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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/724,922	12/01/2003	Bruce S. McLean	7678.808	3301	
7590	02/07/2006		EXAMINER SIRMONS, KEVIN C		
John M. Guynn WORKMAN NYDEGGER 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			ART UNIT		PAPER NUMBER
			3767		
DATE MAILED: 02/07/2006					

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/724,922

Applicant(s)

MCLEAN, BRUCE S.

Examiner

Kevin C. Simons

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al U.S. Pat. No. 6,234,196.

Fischer discloses a syringe to syringe system the mixer consisting only of a single molded piece having: a generally flat, main body (26, 134); said elongated main body and first and second ends being integrally formed of a flexible material so as to permit the first and second ends to serve as flap valves that will open and close in response to fluid pressure exerted on them (figs. 5 and 8); said main body and integral first and second end together being of a size and configuration adapted to be inserted and held between the tips of the two syringes when interconnected with one another (figs. 5 and 8); said first end curving upwardly in essentially continuous manner from the main body (134), and said second end curving in an opposite downward direction in an essentially continuous manner from the main body (134), so that when inserted between the tips of the two syringes of the syringe to syringe system, the first and second surface define first and second channels for interconnecting the two syringes (figs. 5 and 8); and the first end controlling flow through the first channel in one direction only,

and the second end controlling flow through the second channel in an opposite direction only, thereby permitting introduction of material held by one syringe into the other syringe and then repeatedly transferring the mixture of the two components back and forth between the two syringes (figs. 5 and 8).

The examiner regards (26) as a mixer consisting only of a single molded piece, since Fischer discloses that the mixer is substantially immovably fixed within the main body and that the mixer (26) extends integrally from the main body. However, some in the art may not regard the device as a mixer consisting only of a single molded piece therefore, it would be obvious to one having ordinary skill in the art at the time the invention was made to make the mixer without the adaptor (10), since it has been held that constructing a formerly integral structure into a single or various elements involves only routine skill in the art.

The examiner regards (134) as a mixer as being removably coupled to the interior surface of the adaptor. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to only use the mixer of Fischer with the syringes for mixing fluids.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al U.S. Pat. No. 6,234,196 in view of Young U.S. Pat. No. 5,156,600.

Fischer discloses a mixer substantially as claimed except that it may not be clear if the mixer consists only of a single molded piece. Young discloses a mixer (124, 224 and col. 5) consisting only of a single molded piece. Therefore, it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Fischer with the mixer as disclosed by Young for mixing fluid in a syringe.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 571-272-4965. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons  
Primary Examiner  
Art Unit 3767  
2/3/06

A handwritten signature in black ink, appearing to read "Kevin C. Sirmons", is written over the typed name and date.